



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Bob Wieckowski, Vice Mayor
Anu Natarajan
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Annabell Holland, Interim Assistant City
Manager/Parks & Recreation Director

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Mary Kaye Fisher, Interim Human Resources Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY COUNCIL OF THE CITY OF FREMONT**

DATE: **Tuesday, September 14, 2010**

TIME: **6:30 p.m.**

LOCATION: **Fremont Room, 3300 Capitol Avenue, Fremont-**

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session to confer with and receive advice from its attorney regarding possible initiation of litigation by the City in one matter, as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

This Closed Session is authorized by subdivision (c) of Section 54956.9 of the Government Code and will pertain to possible initiation of litigation by the City in one matter.

This Special Meeting is being called by Mayor Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
SEPTEMBER 14, 2010
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Special and Regular Meetings of September 2, 2010*
- 2.3 *PARTIAL RELEASE OF IMPROVEMENT SECURITY, TRACTS 7693 AND 7765,
48921-48979 WARM SPRINGS BOULEVARD, 48923-48999 AND 48887 KATO
ROAD
Approval of the Partial Release of Improvement Security Required by the
Improvement Agreements for Tracts 7693 and 7765, Based on the Partial Completion
of Improvements*

Contact Person:

<i>Name:</i>	<i>Jayson Imai</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4732</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jimai@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION: Approve the partial release of improvement securities for Tracts 7693 and 7765 in the following amounts, retaining the remaining amounts as security until acceptance of the improvements by the City Engineer.

<u>Tract</u>	<u>Original Bond Amount</u>	<u>Remaining Bond Amount</u>
7693 - Public Improvements	\$384,000	\$153,600
7693 - Private Improvements	\$3,745,000	\$1,498,000
7765 - Private Improvements	\$14,551,000	\$5,820,400

2.4 REPORT OF ACTIONS TAKEN DURING COUNCIL RECESS

Report of Actions Taken by the City Manager during Council Recess, July 28, 2010 through September 7, 2010

Contact Person:

<i>Name:</i>	<i>Dawn Abrahamson</i>	<i>Annabell Holland</i>
<i>Title:</i>	<i>City Clerk</i>	<i>Interim Assistant City Manager/ Parks & Recreation Director</i>
<i>Dept.:</i>	<i>City Clerk's Office</i>	<i>City Manager's Office</i>
<i>Phone:</i>	<i>510-284-4063</i>	<i>510-284-4005</i>
<i>E-Mail:</i>	<i>dabrahamson@fremont.gov</i>	<i>aholland@fremont.gov</i>

RECOMMENDATION: Receive report acknowledging actions taken by the City Manager or designee during the recess.

2.5 REPLACEMENT OF LETTER OF CREDIT ON 2008 VARIABLE RATE COPS

Replacement of Letter of Credit on the City of Fremont 2008 Variable Rate Demand Certificates of Participation (2008 Financing Project) (COPs)

Contact Person:

Name: Harriet Commons
Title: Finance Director/Treasurer
Dept.: Finance
Phone: 510-284-4010
E-Mail: hcommons@fremont.gov

RECOMMENDATION:

- 1. Approve substitution of the Allied Irish Bank letter of credit with the U. S. Bank letter of credit for the 2008 Variable Rate Demand Certificates of Participation.*
- 2. Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all agreements, documents, and certificates required to remarket the 2008 Variable Rate Demand Certificates of Participation, including the following documents (which are and have been on file with the Office of the City Clerk), in addition to the enclosures, in connection with the 2008 Variable Rate Demand Certificates of Participation:*
 - a. Reimbursement Agreement with U. S. Bank, National Association*
 - b. Mandatory Tender Notice*

2.6 *HALIMI RESIDENCE DEMOLITION PERMIT REQUEST – 43569 ELLSWORTH STREET*

Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Historical Architectural Review Board (HARB) Determination that an Existing Single-Family Dwelling Located in the Mission San Jose Conservation District is a Potential Register Resource and of the Accompanying HARB Denial of a Request for Permission to Demolish the Structure (PLN2010-00249)

Contact Person:

<i>Name:</i>	<i>Stephen Kowalski</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4532</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>skowalski@fremont.gov</i>	<i>jschwob@fremont.gov</i>

RECOMMENDATION: Continue to October 5, 2010 and direct the City Clerk to republish the appropriate public hearing notice.

2.7 *INTRODUCE AN ORDINANCE AMENDING THE MERGED PROJECT AREA REDEVELOPMENT PLAN TO EXTEND CERTAIN TIME LIMITS AS A RESULT OF PREVIOUS EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF) PAYMENTS*

Conduct Noticed Public Hearing and Consider Introduction of an Ordinance Amending the Consolidated Amended and Restated Redevelopment Plan for the Fremont Merged Redevelopment Project Area to Extend Time Limits for Plan Effectiveness and Tax Increment Receipt as Authorized Under the Community Redevelopment Law as a Result of Agency Educational Revenue Augmentation Fund (ERAF) Payments for Fiscal Years 2004-05 and 2005-06

Contact Person:

<i>Name:</i>	<i>Irene de Jong</i>	<i>Elisa Tierney</i>
<i>Title:</i>	<i>Redevelopment Business Manager</i>	<i>Redevelopment Agency Director</i>
<i>Dept.:</i>	<i>Housing and Redevelopment</i>	<i>Housing and Redevelopment</i>
<i>Phone:</i>	<i>510-494-4510</i>	<i>510-494-4501</i>
<i>E-Mail:</i>	<i>idejong@fremont.gov</i>	<i>etierney@fremont.gov</i>

RECOMMENDATION:

- 1. Conduct and close the noticed public hearing on the proposed Amendment and Ordinance;*
- 2. Introduce an Ordinance amending the Consolidated Redevelopment Plan for the Fremont Merged Redevelopment Project to extend time limits for plan effectiveness and tax increment receipt, including making related CRL findings and directing staff to make appropriate statutory filings.*
- 3. Direct staff to prepare and the City Clerk publish a summary of the ordinance.*

2.8 **JAI PROPERTY CONVERSION APPEAL – 4004 MATTOS DRIVE**
Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Planning Commission Decision to Deny a Conditional Use Permit Application to Allow the Conversion of an Existing Residential Structure to a Commercial Structure (PLN2008-00223)

Contact Person:

<i>Name:</i>	<i>Stephen Kowalski</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4532</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>skowalski@fremont.gov</i>	<i>jschwob@fremont.gov</i>

RECOMMENDATION: Continue to a date to be determined and direct the City Clerk to republish the appropriate public hearing notice.

3. CEREMONIAL ITEMS – None.

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

- 7.1 APPROVE THE FREMONT SKATE PARK DESIGN, 8672 (PWC)
Adopt a Negative Declaration and Approve the Site Master Plan for the Fremont Skate Park, 8672 (PWC) including Proposed Art

Contact Person:

Name:	Roger Ravenstad	Annabell Holland
Title:	Senior Landscape Architect	Director
Dept.:	Community Development	Parks and Recreation
Phone:	510-494-4723	510-494-4329
E-Mail:	rravenstad@fremont.gov	aholland@fremont.gov

RECOMMENDATION:

1. Hold a public hearing.
2. Adopt the draft Negative Declaration, as shown in Exhibit A, and find this action reflects the independent judgment of the City of Fremont.
3. Approve the art designed by Eric Powell for the Advance Bowl railing, and that it meets the requirements of the Art in Public Places Policy, Resolution No. 7111.
4. Approve Exhibit B, Site Master Plan for the Fremont Skate Park, PWC 8672.

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals – None.
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



***2.3 PARTIAL RELEASE OF IMPROVEMENT SECURITY, TRACTS 7693 AND 7765, 48921-48979 WARM SPRINGS BOULEVARD, 48923-48999 AND 48887 KATO ROAD
Approval of the Partial Release of Improvement Security Required by the Improvement Agreements for Tracts 7693 and 7765, Based on the Partial Completion of Improvements**

Contact Person:

Name:	Jayson Imai	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4732	510-494-4748
E-Mail:	jimai@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to request City Council approval of the partial release of improvement securities associated with construction of public and private subdivision improvements in Tracts 7693 and 7765. The improvement securities were furnished by the subdivider of Tracts 7693 and 7765, Warm Springs Village Partners, LLC, in accordance with the "Private Improvement Agreement, Tract 7693" and "Improvement Agreement, Tract 7693," approved by Council on April 3, 2007 and the "Private Improvement Agreement, Tract 7765," approved by Council on September 4, 2007. The subdivider has substantially completed the required public and private improvements. Staff recommends a partial release of sixty percent of the original performance bonds as follows:

<u>Tract</u>	<u>Original Bond Amount</u>	<u>Remaining Bond Amount</u>
7693 - Public Improvements	\$384,000	\$153,600
7693 - Private Improvements	\$3,745,000	\$1,498,000
7765 - Private Improvements	\$14,551,000	\$5,820,400

The remaining bond amounts will be held until acceptance of the tract improvements.

BACKGROUND: Tract 7693 and Tract 7765, also known as Warm Springs Village Phases 1 and 2, are located at the southwest corner of the Warm Springs Boulevard and Kato Road intersection in the Warm Springs Planning Area. The overall project encompasses 18.35 acres and includes 142 detached townhomes, 95 attached townhomes and flats and a 105-unit podium style condominium building. The final map, improvement plans, and agreements for Tracts 7693 and 7765 were approved by City Council on April 3, 2007 and September 4, 2007, respectively.

The public and private improvements required by the subdivision plans and contained in the respective Improvement Agreements have been substantially completed. The bond amounts submitted as security for the construction of the various improvements are as follows:

<u>Tract</u>	<u>Bond Amount</u>
7693 - Public Improvements	\$384,000
7693 - Private Improvements	\$3,745,000
7765 - Private Improvements	\$14,551,000

DISCUSSION/ANALYSIS: Fremont Municipal Code, Section 8-1426, Financial Guarantees, provides, in relevant part, that: “The Council may permit the partial release of the security upon the partial performance of the act or the acceptance of the work as it progresses.” If the Council permits, a partial release of the improvement security may be made prior to acceptance of the improvements by the City Engineer. The developer has asked the City Council to approve the partial release of improvement security based upon the construction completed to date.

City construction staff has been inspecting the project during construction and has determined the subject improvements are substantially complete. Based upon the verifiable progress of construction, staff recommends a partial release of improvement security for both the public and private improvements, with the balance held until final inspections and acceptance by the City Engineer.

In accordance with the Subdivision Map Act, a reduction in the improvement security can be considered if the cost of the remaining improvements does not exceed 20% of the original bond amount. The resulting security to be retained may be up to 200% of the cost of the remaining improvements. In this case, the amount estimated for completion of public and private improvements on Tract 7693 and Tract 7765 is 20% of the original bond amount. Staff recommends retaining security equal to 200% of the estimated remaining improvement costs. The following table summarizes the cost of the remaining improvements and recommended security amounts that would be retained:

<u>Tract</u>	<u>Cost of Remaining Improvements</u>	<u>Amount to be Retained</u>
7693 - Public Improvements	\$76,800	\$153,600
7693 - Private Improvements	\$749,000	\$1,498,000
7765 - Private Improvements	\$2,910,200	\$5,820,400

FISCAL IMPACT: None.

ENVIRONMENTAL REVIEW: The approved Final Map and Improvement Plans for both Tract 7693 and 7765 are consistent with the original project descriptions, scopes of work, and identified mitigations of the July 2004, City Council adopted Mitigated Negative Declaration. No further environmental review is required.

ENCLOSURES:

- [Informational Item 1: Copy of Council report - Approval of Final Map Tract 7693 at 48921-48979 Warm Springs Boulevard, KB Home South Bay, Inc.](#)
- [Informational Item 2: Copy of Council report - Approval of Final Map Tract 7765 at 48921-48979 Warm Springs Boulevard, Warm Springs Village Partners, LLC](#)

RECOMMENDATION: Approve the partial release of improvement securities for Tracts 7693 and 7765 in the following amounts, retaining the remaining amounts as security until acceptance of the improvements by the City Engineer.

<u>Tract</u>	<u>Original Bond Amount</u>	<u>Remaining Bond Amount</u>
7693 - Public Improvements	\$384,000	\$153,600
7693 - Private Improvements	\$3,745,000	\$1,498,000
7765 - Private Improvements	\$14,551,000	\$5,820,400

***2.4 REPORT OF ACTIONS TAKEN DURING COUNCIL RECESS**

Report of Actions Taken by the City Manager during Council Recess, July 28, 2010 through September 7, 2010

Contact Person:

Name:	Dawn Abrahamson	Annabell Holland
Title:	City Clerk	Interim Assistant City Manager/ Parks & Recreation Director
Dept.:	City Clerk's Office	City Manager's Office
Phone:	510-284-4063	510-284-4005
E-Mail:	dabrahamson@fremont.gov	aholland@fremont.gov

Executive Summary: The purpose of this report is to notify City Council of the administrative actions taken by the City Manager or his designee during the Council recess July 28, 2010 through September 7, 2010.

BACKGROUND: On July 27, 2010, City Council adopted Resolution No. 2010-49 authorizing the City Manager or designee to approve administrative matters specified in the resolution during the legislative recess period. All of the contract awards were at or below the budgeted amount and engineers' estimated amounts which are shown below. Following is the status of items specified in Resolution No. 2010-49:

- Title:** Renewal and Modification of Narcotic and Gang Task Force Memoranda of Understanding

Staff Contact: Richard Lucero, Police Captain, 790-6818

Name of Contracting Party: Alameda County Probation Department, California Highway Patrol, Newark Police Department, Union City Police Department, California Bureau of Narcotic Enforcement, and United States Department of Justice

Budgeted Amount: Approximately \$94,000 excluding salary of participating employees.

Action: Executed a modified MOU with Alameda County Probation Department, California Highway Patrol, Newark Police Department, Union City Police Department, and California Bureau of Narcotic Enforcement permitting continuance of the task forces and reflecting an operational change.
- Title:** Approval of Plans and Specifications and Award of Contract to the lowest responsible bidder for the 2010 Kato Road Full Depth Reclamation and Asphalt Overlay, City Project No. 8234-K (PWC)

Staff Contact: Craig Covert, Associate Civil Engineer, 494-4785

Name of Contracting Party: Granite Rock Company DBA Pavex Construction Division

Budgeted Amount: \$1,500,000

Action: Issued an award letter to Pavex Construction Division for the base bid amount of \$1,011,701.10 and recommended award of the

contract for the optional bid deduct amount of \$112,300.30 as the cement treatment option is the preferred alternative for strengthening the reclaimed pavement materials; therefore, making the award of the contract for the combined total bid amount of \$899,400.80.

3. Title: Security Guard Services for the Police Department Seismic Retrofit Construction Project
Staff Contact: Rob Kalkbrenner, Civic Facilities Development Manager, 494-4428
Name of Contracting Party: Overton Security Services, Inc.
Budgeted Amount: \$225,000
Action: Executed a contract with Overton Security Services, Inc., to provide security guard services during construction for the Police Department Seismic Retrofit Construction Project in an amount not-to-exceed \$225,000.
4. Title: Police Department Seismic Retrofit Construction Project Management Services Amendment
Staff Contact: Rob Kalkbrenner, Civic Facilities Development Manager, 484-4428
Name of Contracting Party: Critical Solutions, Inc.
Budgeted Amount: \$84,700
Action: Executed Amendment No. 1 to the existing agreement for Police Department Seismic Retrofit Construction Project Management services with Critical Solutions, Inc., for additional construction administration services in an amount not-to-exceed \$84,700 which will increase the total construction administrative services contract to an amount not-to-exceed \$579,520, and retained the City Manager's amendment authority pursuant to the Purchasing Code at 20% of the original contract amount for future amendments.
5. Title: On-Call Master Service Contract for Electrical Engineering
Staff Contact: Mark Mennucci, Associate Landscape Architect, 494-4530
Name of Contracting Party: AEI Affiliated Engineers, Inc., and YEI Engineers, Inc.
Budgeted Amount: No specific budgeted amount as the Master Service Contract will be billed per agreed Task Order for electrical design service. The terms of each Master Service contract will specify a not-to-exceed amount of \$150,000 per year for three years, for a total of \$450,000. At the end of three years, the City will have the option to extend each contract term for up to two additional, one-year periods with a not-to-exceed amount of \$100,000 per additional one-year period, bringing the total potential not-to-exceed amount of each contract to \$650,000.

Action: Executed two separate contracts to AEI Affiliated Engineers, Inc., and YEI Engineers, Inc., for On-Call Electrical Engineering

Master Service Agreement and retained the City Manager's authority to exercise the option to extend each contract term for up to two additional one-year periods with a not-to-exceed amount of \$100,000 per additional one-year period, provided the City Manager or his designee determines that the contractor has been responsive to the City's needs and the quality of work has been satisfactory.

6. Title: Fleet Replacement Vehicle Purchases from City Council Approved Multi-Year Vehicle Purchase Bid #09-12 and #09-27
Staff Contact: Mark Collins, Fleet Maintenance Supervisor, 979-5739
Name of Contracting Party: Frontier Ford and Hansel Ford
Budgeted Amount: There is sufficient funding in the 2010/11 Fiscal Year Vehicle Replacement fund (Fund 610) of \$1,510,326 to cover the total purchase cost of \$669,129.
Action: Issued a purchase order to, and executed implementing documents with, Frontier Ford in the amount of \$299,392 for the purchase of eight Ford Crown Victoria police patrol vehicles and four Ford Fusions, and issued a purchase order to, and executed implementing documents with, Hansel Ford in the amount of \$369,732 for the purchase of 11 Ford Escape hybrid vehicles.
7. Title: Oracle/PeopleSoft Contract Approval
Staff Contact: Marilyn Crane, IT Services Director, 494-4802
Name of Contracting Party: Oracle America, Inc.
Budgeted Amount: \$249,924.58
Action: Issued a purchase order to, and executed implementing documents with, Oracle America, Inc., for Relational Database update license and support and for PeopleSoft HR/Payroll application and MicroFocus COBOL software compiler support.
8. Title: Agreement with California Department of Aging for MSSP Services
Staff Contact: Karen Grimsich, Aging and Family Services Administrator, 574-2062
Name of Contracting Party: California Department of Aging
Budgeted Amount: \$235,675
Action: Executed agreement and implementing documents with the California Department of Aging to provide senior case management services in the amount of \$235,675.
9. Title: Reappropriation of CDBG Funding from FRC Parking Lot Renovation Project to FRC Space Renovation Project and amendment of the City's Action Plan
Staff Contact: Lucia Hughes, CDBG Administrator, 574-2043
Name of Contracting Party: N/A

Budgeted Amount: \$40,362
Recommended Action: Reappropriated \$40,362 in CDBG funding from the FRC Parking lot project to the FRC Space Renovation Project and executed implementing documents.

10. Title: FY 2009/10 Probation Contract Continuation
Staff Contact: Iris Preece, Youth and Family Services Administrator, 574-2128
Name of Contracting Party: Alameda County Probation Department
Budgeted Amount: \$113,963
Recommended Action: Executed a ninety-day contract for a total not-to-exceed amount of \$113,963 with Alameda County Probation Department to continue programs supporting at-risk youth and families from Fremont and Newark in the first quarter of FY 2010/11.

ENCLOSURE: None.

RECOMMENDATION: Receive report acknowledging actions taken by the City Manager or designee during the recess.

***2.5 REPLACEMENT OF LETTER OF CREDIT ON 2008 VARIABLE RATE COPS**
Replacement of Letter of Credit on the City of Fremont 2008 Variable Rate Demand
Certificates of Participation (2008 Financing Project) (COPs)

Contact Person:

Name: Harriet Commons
Title: Finance Director/Treasurer
Dept.: Finance
Phone: 510-284-4010
E-Mail: hcommons@fremont.gov

Executive Summary: The City of Fremont, through the Fremont Public Financing Authority (PFA), executed and delivered its Variable Rate Demand Certificates of Participation (2008 Financing Project) (the “Certificates” or “COPs”) on November 13, 2008, with a direct pay letter of credit from Allied Irish Bank p.l.c. (“AIB”) providing credit and liquidity support. Reflecting sovereign debt concerns in Greece and portions of Europe, including Ireland, Standard & Poor’s recently downgraded AIB’s short-term rating to “A-2” from the previous “A-1”, a short-term rating level right at the acceptable lower limit of many money market funds. As a result, the weekly interest rate on these COPs shot up to 3.50%, plus or minus, where it has remained every week since. Variable rate issues with strong letters of credit, including the City’s other variable rate COPs, continue to trade with weekly interest rates of about 0.30%, plus or minus. To mitigate this 3% trading penalty, staff recommends substituting the letter of credit with Allied Irish Bank with one from U. S. Bank, a bank with a stronger rating that will make the COPs once again attractive investments for money market fund investors.

BACKGROUND: The City of Fremont, through the Fremont Public Financing Authority (PFA), executed and delivered its Variable Rate Demand Certificates of Participation (2008 Financing Project) (the “Certificates” or “COPs”) on November 13, 2008, with a direct pay letter of credit from Allied Irish Bank p.l.c. (“AIB”) providing credit and liquidity support. AIB was chosen because it was available at a time when letters of credit were not easily available, it was reasonable in cost, and short-term variable rate COPs backed by their letters of credit were trading very well; that is, the weekly interest rate was basically as low as most other banks’ letter of credit backed certificates of participation.

Until a few months ago, that continued to be the case or close to it, so as to not warrant searching for a replacement letter of credit. However, Standard & Poor’s has now downgraded AIB’s short-term rating to “A-2” from the previous “A-1”, a short-term rating level right at the acceptable lower limit of many money market funds. This occurred at a time when the sovereign debt of Greece appeared in the news as a serious credit risk, along with other European nations, such as Ireland, and some of their respective banks, like AIB, which is largely owned and controlled now by the Republic of Ireland. First Fidelity, and then with some other money market funds quickly following, decided that rather than worry about if and when there would be a further rating downgrade, they would simply sell all AIB-backed paper they held and not buy any more. The result was that the weekly interest rate on these COPs shot up to 3.50%, plus or minus, where it has remained every week since, as only non-money market fund investors, a smaller universe seeking higher yields, remain as buyers.

Variable rate issues with strong letters of credit, including the City's other variable rate COPs, continue to trade with weekly interest rates of about 0.30%, plus or minus. With \$46,960,000 in outstanding COPs, a 300 basis point (3%) trading penalty that continued for a year would amount to \$1,408,800 (about \$117,000 per month) in extra interest expense to the City. Accordingly, City staff and KNN Public Finance, the City's financial advisor, moved to obtain a replacement letter of credit from a strongly rated bank that will allow these COPs to trade at the same level as similar issues with a strongly rated bank letter of credit.

DISCUSSION/ANALYSIS: In light of AIB's downgrade, there has been interest by a number of banks to offer substitute letters of credit to those affected issuers. U. S. Bank, National Association ("U. S. Bank") was identified as the best fit for this particular situation. U. S. Bank is rated "AA-" long-term and "A-1+" short-term by Standard & Poor's and, in combination with the City's current "AA" COP rating, will give the COPs a "AAA" long-term rating and a "A-1+" short-term rating from Standard & Poor's. This will allow the COPs to trade, under current market conditions, at a weekly interest rate of 0.30%, plus or minus. (Other U. S. Bank ratings are "Aa1/P-1" from Moody's and "AA-/F1+" from Fitch.)

The new reimbursement agreement between the City and U. S. Bank, which governs the letter of credit, and the new letter of credit, both now substantially in the form that will be executed, have been submitted to Standard & Poor's for rating the COPs with the new letter of credit. Rating is estimated to take about three weeks, but could be completed sooner. There will also need to be a week for the City's trustee for the COPs to execute a mandatory tender (call) of the COPs and for the City's remarketing agent, Barclay's Capital, Inc., to remarket the COPs to investors with the U. S. Bank letter of credit. At that point, on a Wednesday, the U. S. Bank letter of credit will replace the AIB letter of credit. There are no changes to the basic documents or terms of the COPs; the letter of credit replacement is entirely within the terms of these documents.

The resolution before the City Council for adoption authorizes City staff to take actions to effect the replacement of the letter of credit from AIB with a new letter of credit from U. S. Bank, approves the form of the new letter of credit reimbursement agreement between the City and U. S. Bank, and approves the form and use of the Remarketing Supplement (essentially a variety of official statement describing the City, the letter of credit replacement process, and the new letter of credit and letter of credit reimbursement agreement) to remarket the COPs.

FISCAL IMPACT: The estimated costs with respect to the letter of credit replacement are as follows:

U. S. Bank, for Letter of Credit	100 basis points (1%) annually on the outstanding amount of the letter of credit; no up-front fee.
Hawkins Delefield & Wood LLP, Bank Counsel	\$40,000 to \$50,000
KNN Public Finance, City's Financial Advisor	\$17,500
Quint & Thimmig, Special Counsel for the Certificates	To be determined
Standard & Poor's, Letter of Credit Substitution Fee	\$5,000
Allied Irish Bank, Termination Fee	Under the existing AIB reimbursement agreement, AIB is entitled to its annual letter of credit fee of 90 basis points through November 6, 2010, regardless of termination before then.
Estimated total out-of-pocket costs to the City at letter of credit substitution	\$90,000 to \$100,000

The positive fiscal impact of replacing the AIB letter of credit with the U. S. Bank letter of credit is a reduction in the weekly interest rate of approximately 3%. This will result in annual savings to the General Fund of approximately \$1.4 million.

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURES:

- [Resolution approving the substitution of the letter of credit bank relating to the City's \\$48,685,000 variable rate demand certificates of participation \(2008 Financing Project\), approving a supplement to the official statement relating to such certificates, approving the form and authorizing and directing execution of a reimbursement agreement with the issuer of the substitute letter of credit and authorizing official actions](#)
- [Remarketing Supplement to the Official Statement for the 2008 Variable Rate Demand Certificates of Participation](#)

RECOMMENDATION:

1. Approve substitution of the Allied Irish Bank letter of credit with the U. S. Bank letter of credit for the 2008 Variable Rate Demand Certificates of Participation.
2. Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all agreements, documents, and certificates required to remarket the 2008 Variable Rate Demand Certificates of Participation, including the following documents (which are and have been on file with the Office of the City Clerk), in addition to the enclosures, in connection with the 2008 Variable Rate Demand Certificates of Participation:
 - a. Reimbursement Agreement with U. S. Bank, National Association
 - b. Mandatory Tender Notice

***2.6 HALIMI RESIDENCE DEMOLITION PERMIT REQUEST – 43569 ELLSWORTH STREET**

Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Historical Architectural Review Board (HARB) Determination that an Existing Single-Family Dwelling Located in the Mission San Jose Conservation District is a Potential Register Resource and of the Accompanying HARB Denial of a Request for Permission to Demolish the Structure (PLN2010-00249)

Contact Person:

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Executive Summary: This item was published for the September 14, 2010 meeting. However, due to scheduling issues this item will be continued to a date certain of October 5, 2010.

ENCLOSURE: None

RECOMMENDATION: Continue to October 5, 2010 and direct the City Clerk to republish the appropriate public hearing notice.

***2.7 INTRODUCE AN ORDINANCE AMENDING THE MERGED PROJECT AREA REDEVELOPMENT PLAN TO EXTEND CERTAIN TIME LIMITS AS A RESULT OF PREVIOUS EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF) PAYMENTS**

Conduct Noticed Public Hearing and Consider Introduction of an Ordinance Amending the Consolidated Amended and Restated Redevelopment Plan for the Fremont Merged Redevelopment Project Area to Extend Time Limits for Plan Effectiveness and Tax Increment Receipt as Authorized Under the Community Redevelopment Law as a Result of Agency Educational Revenue Augmentation Fund (ERAF) Payments for Fiscal Years 2004-05 and 2005-06

Contact Person:

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EXECUTIVE SUMMARY: Staff recommends that the City Council conduct a noticed public hearing and introduce an ordinance to approve an amendment (the "Amendment") to the Consolidated Amended and Restated Redevelopment Plan (the "Consolidated Redevelopment Plan") for the Fremont Merged Project Area (the "Merged Project Area"). The purpose of the Amendment is to extend the time limits on the effectiveness of the Consolidated Redevelopment Plan, and on the repayment of indebtedness and receipt of property tax increment revenue by the Redevelopment Agency of the City of Fremont (the "Agency") under the Consolidated Redevelopment Plan by two years for the following older portions of the Merged Project Area: the portion of the former Irvington Project Area established in 1977 (the "Irvington Original Area"); the portion of the former Niles Project Area established in 1977 (the "Niles Original Area"); and the former Industrial Project Area established in 1983 (the "Industrial Area"). The Consolidated Redevelopment Plan is the combined form of the redevelopment plans for the Irvington, Niles, Centerville and Industrial subareas of the Merged Project Area that was approved by the City Council in March 2010.

The proposed Amendment is meant to recognize the negative effects of the loss of revenue to the Agency from the ERAF payments mandated by the State for Fiscal Years 2004-05 and 2005-06. It does so by allowing the Agency an additional two years in which to receive tax increment revenues. The proposed time limits extension to the Consolidated Redevelopment Plan is permitted by Senate Bill 1096 (SB 1096), which added Health and Safety Code Section 33333.6(e)(2)(D)) as a result of the 2004-05 and 2005-06 ERAF payments. Approval of the Amendment will provide the Agency with an additional two years to implement its redevelopment program and to receive tax increment from the Irvington Original Area, Niles Original Area, and Industrial Area portions of the Merged Project Area. As a result, the Agency will be able to partially offset the adverse impact of the State's requirement to make ERAF contributions during 2004-05 and 2005-06.

The statute authorizing the proposed Amendment does not allow a similar time limit extension for the newer portions of the Merged Project Area consisting of: the portion of the former Irvington Project

Area established in 1998 (the "Irvington Added Area"); the portion of the former Niles Project Area established in 1998 (the "Niles Added Area"); and the former Centerville Project Area established in 1997 (the "Centerville Area"). In effect, SB 1096 allows a time extension for older project areas or portions of project areas that are nearing their time limits and that will be particularly harmed by the loss of revenue to ERAF payments. However, the statute does not allow such a benefit for newer project areas or portions of project areas that have more time under the existing time limits to make up for the foregone ERAF payments.

BACKGROUND: In 2004, the State Legislature enacted SB 1096, which required redevelopment agencies to contribute a cumulative \$125,000,000 to ERAF each year for the 2004-05 and 2005-06 fiscal years. For Fremont, this two-year ERAF contribution totaled \$ 4,432,151.53. As part of SB 1096, redevelopment agencies making the 2004-05 and 2005-06 ERAF contributions at least 10 years prior to the expiration of the effectiveness of their redevelopment plan but less than 20 years prior to the effectiveness of their redevelopment plan are authorized to extend their redevelopment plan time limits on plan effectiveness and receipt of tax increment by two years if the Agency can make certain findings described in the next section of this report.

The following chart shows, for each of the six subareas of the Merged Project Area under the Consolidated Redevelopment Plan, the current deadlines for plan effectiveness and tax increment receipt, and the extensions of those deadlines proposed to be implemented through the Amendment in accordance with SB 1096. As shown in the chart, two year extensions can be implemented under SB 1096 Amendment for the older portions of the Merged Project Area (Irvington Original Area, Niles Original Area, and Industrial Area), but not for the newer portions of the Merged Project Area (Irvington Added Area, Niles Added Area, and Centerville Area). This is because SB 1096 allows a time extension for older project areas or portions of project areas that are nearing their time limits, and that will be particularly harmed by the loss of revenue to ERAF payments, and does not allow such extensions for newer project areas or portions of project areas that have more time under their existing time limits to make up for the foregone ERAF payments.

Merged Project Sub-Areas	Existing Plan Effectiveness Date	Amended Plan Effectiveness Date	Existing Last Date to Receive Tax Increment	Amended Last Date to Receive Tax Increment
Irvington Original Area	7/5/18	7/5/20	7/5/28	7/5/30
Irvington Added Area	7/7/29	7/7/29*	7/7/44	7/7/44*
Niles Original Area	7/5/18	7/5/20	7/5/28	7/5/30
Niles Added Area	7/7/29	7/7/29*	7/7/44	7/7/44*
Centerville Area	7/8/28	7/8/28*	7/8/43	7/8/43*
Industrial Area	11/22/24	11/22/26	11/22/34	11/22/36

*Not eligible for SB 1096 extension

DISCUSSION/ANALYSIS: Under SB 1096, the Agency is entitled to take advantage of the two year extension of the plan effectiveness and tax increment receipt limits for the Irvington Original Area, Niles Original Area, and Industrial Area portions of the Merged Project Area if the City Council makes certain findings regarding the Agency. The proposed Ordinance approving the Amendment includes the required findings based on the following evidence:

1. The Agency must be in compliance with the requirements of Health and Safety Code Section 33334.2, which requires that the Agency deposit twenty percent (20%) of all tax increment collected in the Low and Moderate Income Housing Fund and that such funds be expended in accordance with Section 33334.2.

The Agency has each year deposited at least 20% of its tax increment from the Merged Project Area in the Low and Moderate Income Housing Fund (the "Housing Fund") as evidenced by the Agency's annual financial audits (the "Agency Audits"), and the Agency's annual reports to the State Controller's Office and the State Department of Housing and Community Development (the "Agency Reports"), which are incorporated in this staff report by this reference. The Agency has spent amounts deposited in the Housing Fund in accordance with the requirements of Health and Safety Code Section 33334.2 as also evidenced by the Agency Audits and Agency Reports.

2. The Agency must have adopted an implementation plan in accordance with the requirements of Health and Safety Code Section 33490.

The Redevelopment Agency adopted its current five-year Implementation Plan on June 10, 2008 by Resolution No. 389, and amended the Implementation Plan on March 2, 2010 by Resolution No. 410 (as amended, the "Implementation Plan"), which is incorporated in this staff report by this reference.

3. The Agency is in compliance with Health and Safety Code Section 33413 (a) and (b), which require that the Agency replace any low and moderate income housing units destroyed as a result of redevelopment activities and that the Agency insure that 15% of all housing built in the Merged Project Area be affordable to low and moderate income households.

To date, the Agency has replaced any units destroyed as a result of redevelopment activities and the Agency has exceeded its requirement to produce affordable housing units in the Merged Project Area by 279 very low income units and 226 moderate income units. Support for the replacement housing and housing production status and results can be found in Part VII of the Implementation Plan.

4. The Agency cannot be subject to sanctions for failure to spend an excess surplus in its Housing Fund pursuant to Health and Safety Code Section 33334.12.

The Agency does not have an excess surplus in its Housing Fund and therefore is not subject to sanctions for failure to spend an excess surplus. Support for this finding can be found in the Agency Audits and Agency Reports.

5. The funds used by the Agency to make the applicable ERAF payments would otherwise have been used to pay costs of the projects needed to achieve the goals and objectives of the redevelopment plans then in effect for the Merged Project Area.

To meet the redevelopment program goals and objectives for the Merged Project Area, the Implementation Plan shows current five-year expenditure needs of \$216.4 million for non-housing activities; and the Report To City Council for the Consolidated Redevelopment Plan (dated December 2009 and incorporated in this staff report by this reference) (the "Report To Council") shows expenditure requirements throughout the remainder of the Plan's life of \$373.3 million for non-housing activities. Had the Agency not been required to make a two-year total ERAF payment of \$4,432,151.53 during the 2004-05 and 2005-06 Fiscal Years pursuant to SB 1096, the Agency would have had that additional amount available for, and would have been able to pay for a portion of, the non-housing expenditure programs and activities outlined in the Implementation Plan and the Report to Council, thereby enabling the achievement of redevelopment goals and objectives for the Merged Project Area to have occurred at an earlier time. In short, both the Implementation Plan and the Report to Council fully document the significant list of non-housing redevelopment program activities toward which the Agency could have and would have applied the funds that instead were required by SB 1096 to be applied toward the applicable ERAF payments.

In adopting the proposed Amendment, Health and Safety Code Section 33333.6(e)(2) permits the City Council to bypass most of the procedures normally required for redevelopment plan amendments. Pursuant to Health and Safety Code Section 33333.6(e)(3), notice of the public hearing on the Amendment being conducted this evening was mailed to all affected taxing agencies at least thirty days prior to the public hearing. Notice of the public hearing was also published in the Tri-City Voice on August 31, 2010. The City Council may adopt the proposed Amendment in accordance with the normal procedures for the enactment of ordinances.

FISCAL IMPACT: Approval of the Amendment will provide the Agency with an additional two years to implement its redevelopment program and receive tax increment from the Irvington Original Area, Niles Original Area, and Industrial Area portions of the Merged Project Area, thereby partially offsetting the adverse impact of the State requirement that the Agency make contributions to ERAF during the 2004-05 and 2005-06 fiscal years.

It should be emphasized that the proposed Amendment does not modify the dollar limits on the total amount of tax increment revenue that the Agency may receive from the Merged Project Area, as established in the recently approved Consolidated Redevelopment Plan (including the \$1.5 billion limit for receipt of tax increment revenue from the Industrial Area portion of the Merged Project Area that was established through approval of the Consolidated Redevelopment Plan). Consequently, while the Agency will have two more years to implement its redevelopment program for the affected portions of the Merged Project Area, the Amendment will not increase the total amount of tax increment revenue that may be received by the Agency from the Merged Project Area. As a result, it is anticipated that the proposed Amendment will not have an adverse impact on the City's General Fund or on the other affected taxing entities that receive property taxes from the Merged Project Area, since the Agency's ability to claim tax increment revenue will still expire (and the right of the City's General Fund and the other taxing entities to receive the full level of property taxes generated from the Merged Project Area will still recommence) when the already existing and unchanged tax increment dollar receipt limits in

the Consolidated Redevelopment Plan are reached, notwithstanding the time limit extensions contained in the proposed Amendment.

ENVIRONMENTAL REVIEW: Pursuant to the State California Environmental Quality Act (CEQA) Guidelines at 14 California Code of Regulations Section 15378(b)(2), (4) and (5), adoption of the Amendment is not a "project," and is therefore exempt from CEQA review. Staff recommends that the City Council approve a CEQA Notice of Exemption for the Ordinance and the Amendment, and that the CEQA Notice of Exemption be filed by staff with the Alameda County Clerk.

ENCLOSURES:

- [Draft Ordinance](#)
- [Text of Proposed Plan Amendment to Extend Time Limits for Plan Effectiveness and Tax Increment Receipt as Authorized Under the CRL](#)

RECOMMENDATION:

1. Conduct and close the noticed public hearing on the proposed Amendment and Ordinance;
2. Introduce an Ordinance amending the Consolidated Redevelopment Plan for the Fremont Merged Redevelopment Project to extend time limits for plan effectiveness and tax increment receipt, including making related CRL findings and directing staff to make appropriate statutory filings.
3. Direct staff to prepare and the City Clerk publish a summary of the ordinance.

***2.8 JAI PROPERTY CONVERSION APPEAL – 4004 MATTOS DRIVE**
Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Planning Commission Decision to Deny a Conditional Use Permit Application to Allow the Conversion of an Existing Residential Structure to a Commercial Structure (PLN2008-00223)

Contact Person:

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Executive Summary: The applicant requested a continuance due to a scheduling conflict. The matter is being continued to a date to be determined.

ENCLOSURE: None

RECOMMENDATION: Continue to a date to be determined and direct the City Clerk to republish the appropriate public hearing notice.

6.1 Report Out from Closed Session of Any Final Action

7.1 APPROVE THE FREMONT SKATE PARK DESIGN, 8672 (PWC)

Adopt a Negative Declaration and Approve the Site Master Plan for the Fremont Skate Park, 8672 (PWC) including Proposed Art

Contact Person:

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Executive Summary: This report recommends the City Council adopt the Negative Declaration and approve the Site Master Plan and art railing for the Fremont Skate Park in Central Park. On July 22, 2010 the Recreation Commission recommended the City Council approve the Site Master Plan for the Skate Park project including an art railing recommended by the Art Board. The site is approximately one acre and located on the west side of the undeveloped portion of the old swim lagoon site, adjacent to Aqua Adventure Water Park. The design team of Verde Design, Inc. and Wormhoudt, Inc. generated the proposed Master Plan after collaboration with local skaters at two workshops. The proposed design incorporates both street and bowl type skating into the design, making this park attractive to a broad range of skaters.

BACKGROUND: In the June 2009 adoption of the fiscal year 2009/10 to 2013/14 Capital Improvement Program Budget the City Council included the remaining funding needed to complete Fremont's first permanent skate park to replace the temporary park that was closed in April 2009. In 1999, Fremont opened the temporary wooden ramp skate park, which was intended to last five years until enough funding could be established for a permanent facility. A modern permanent facility differs from a temporary facility in that it is built of concrete and typically includes multiple deep bowls combined with "street" style features that mimic an urban downtown plaza. Through extensive maintenance and repairs, Fremont managed to keep the temporary facility open to local skaters for ten years. By April 2009, acquiring replacement parts for the ramps became extremely difficult and expensive. The parts were no longer being manufactured in mass. For safety and financial reasons, the temporary skate park closed permanently.

Location analysis: Staff from the Parks & Recreation Department and Community Development Department conducted a location study that looked at all of Central Park. Central Park is the preferred park for facilities such as a skate park due to the centralized location, and the uniqueness of this facility. A site selection process was conducted through the use of the following criteria:

- Centralized location within the City and Central Park,
- High visibility from outside for safety and convenience for park ranger and police patrol,
- Existing parking directly adjacent to facility,
- Restroom available near the site,
- Suitably segregated from other conflicting use areas, such as play areas, group picnic areas, and passive use areas,
- Suitable distance from residential areas

- Controlled access: a site that can be easily fenced should the City find it necessary to do so,
- Adequate and suitable area for skate park and appurtenances,
- Utility connections nearby

The following sites were analyzed and not recommended as the preferred location:

Stevenson Boulevard near the softball complex: This location is currently occupied by the BART project through at least 2013. The site meets the above criteria; however, waiting for this site will delay the start of construction from 2011 to 2014/15 and will have associated cost escalations. Additionally, once the BART work is complete, the site will be impacted by the BART subway which will be only 6 feet below the surface in this location. This would add complexity and potential cost to developing a skate facility with bowls ranging from 3 to 12 feet deep. Since the skateboarders have been waiting for the construction of a permanent park since 2000, and because of concern for the potential for escalating construction costs by delaying the project three or more years, staff did not further study this location.

Paseo Padre Parkway and Stevenson Boulevard (Performing Arts Center Site): This site was eliminated primarily due to the City General Plan designation as a Performing Arts facility. Additionally, parking is not directly adjacent to this site, the nearest restroom is a fair distance away near Sailway Drive, and no existing storm drain facility or other utilities currently support the site.

Areas near the shore of Lake Elizabeth: were eliminated due to potentially sensitive habitat, and the desire to keep the areas nearest the lake as passive and natural as possible.

Areas south of Sailway Drive and north of the Senior Center: These locations were eliminated due to the presence of the Hayward Fault and the displacement of existing users. Although the Skate Park will be reinforced and designed in such a manner that it can last 50+ years, that does not hold true if placed in these active fault locations. The Skate Park consultant/engineer has looked at these locations and recommended against them. The creeping fault would cause cracking, creating a rough surface that would cause wheel stoppage on the skateboards, creating a hazardous situation.

Temporary skate park site: The site met aspects of the evaluation criteria, such as parking and separation from conflicting uses, but lacked in some critical areas, such as limited visibility, proximity to restrooms, limited area for modern skate park appurtenances, and proximity to the Hayward Fault.

Staff is recommending the Paseo Padre Parkway site adjacent to the Waterpark. This location has excellent visibility, updated utilities, adjacent restroom, adjacent parking, ample space to maximize flexibility in design, and appropriate adjacent park uses. Six residential homes across the street on Paseo Padre Parkway are buffered by a distance of approximately 300 feet, which includes a parking lot, four lane boulevard, and two tree lined landscaped medians (one that is over 30 feet wide). The adjacent Water Park is a compatible use. The Water Park parking study demonstrated that, even with the increased demand after the opening of the Water Park, there is additional capacity in the surrounding parking lots. With the exception of a few high use park Saturdays during the summer, this has shown to be accurate based on staff observation.

Public notification: The July 21, 2010 Recreation Commission Meeting was publicly noticed in the Argus Newspaper and by direct mailing to the residents and property owners fronting Paseo Padre

Parkway across from the future skate park site. The mailed flyer identified the July 21, 2010 Recreation Commission meeting and tonight's City Council meeting. In addition, the Notice of Intent to Adopt a Negative Declaration for the Skate Park project was mailed to properties within 300 feet and beyond on August 24, 2010, which identified tonight's City Council meeting date and time. E-mail notification was also sent to workshop participants who signed in during the meetings.

The Recreation Commission meeting was the first public presentation of the proposed design outside of the design workshops. The proposed location was previously reviewed by the City Council at their March 2, 2010 meeting. The neighbors were not directly notified of that meeting. The Argus printed an article in their March 3, 2010 newspaper discussing the proposed skate park and upcoming workshops, and started a Blog roll ten days earlier on February 23rd. The Skate Park is a permitted use in Central Park and does not require mailing to adjacent properties. However, given the high profile nature of a skate park, and issues raised by some of the adjacent residents, staff has sent out direct mailing for the Recreation Commission meeting and tonight's meeting.

Neighborhood concerns and appeal: Since the Argus article on March 3, 2010, some of the neighbors that front Central Park on Paseo Padre Parkway have contacted staff to voice their opposition to the skate park location adjacent to the Water Park. Staff has also heard from some neighbors in that area that support the skate park location. In retrospect, broader notification earlier in the process outside of the outreach to the skate community would have aired these issues earlier. Since March 2010, staff has attempted to address the issues through multiple meetings and written correspondence with neighbors. During those meetings staff has reviewed the site analysis, provided information on additional sites, met with neighbors in their homes to discuss visibility and screening, and has been responsive to all requests for information and additional meetings. On August 2, 2010 a group of neighbors filed an "Appeal to the City Council" to review the Recreation Commission's July 21, 2010 recommendation that the Council approve the Site Master Plan for the Skateboard Park. The neighbors were informed that the Commission's recommendation was not an action subject to appeal. The neighbors were also told that the Site Master Plan would be considered by the City Council in September.

The neighbors concerns can be generally categorized to include perceived increases in vandalism, crime, and noise.

Vandalism: Vandalism is a problem throughout the City park system and is predominantly in the form of graffiti. The City has a graffiti removal program in maintenance that has been successful in removing graffiti in a timely manner throughout the City parks. The best surfaces for graffiti in the skate park will be the concrete skating surface. Since skaters find painted surfaces very undesirable to skate on due to the slick surface it creates, we anticipate graffiti by skaters to be non-existent. It is also likely that skaters will police others committing graffiti in what they will regard as their park. The previous skate park experienced far less vandalism than the majority of our park system, including playgrounds, and had very few graffiti incidences over the ten years.

Crime: The proposed skate park is specifically designed to address safety by attracting a broad range of users to the facility in providing features for all ages with increasing levels of challenge, providing access to non skating people and parents with designated walkways and picnic area, and with the addition of lighting to enhance visibility during the evening hours. Years ago, communities tried to hide their skate parks due to the unattractive nature of vast areas of concrete or ugly wood ramps. Locating

these parks in places such as alleys or behind buildings or industrial sections of town led to these parks being subject to undesirable activities and parents unwilling to allow their children go there. The negative public opinion of skate parks persists today largely due to these older parks in out of the way locations. Much has been learned from these early mistakes and communities are now embracing skate parks by including them in family use areas where parents feel more comfortable letting their children skate and local enforcement can routinely and easily observe the activities in the park. The Fremont Skate Park proposal includes trees and landscape areas to break up the vast areas of concrete so the park will fit into the overall Central Park setting.

The City has a staff of Park Rangers in Central Park that will regularly patrol the skate park, supplementing the city's police force. The location of this park is far more visible and accessible than the previous facility at the knoll, making it easier for both the Park Rangers and Police to patrol during regular rounds. The high level of visibility was one of the reasons the Paseo Padre Parkway location was selected.

Noise: According to professional noise studies performed on existing skate parks in Santa Cruz, Portland Oregon, and Seattle Washington, noise is not a significant issue in skate parks. Staff has reviewed these reports and generally, noise levels fifty feet from a skate park were found to be in the range of 45 decibels with occasional high points at approximately 60 decibels. As a comparison, the decibel level of two people talking (at close range) is approximately 60 decibels. The City of Fremont General Plan states that 60 decibels in residential areas is in the acceptable range, and for parks up to 70 decibels is acceptable. A year 2000 study found that the decibel level of Paseo Padre Parkway (adjacent to the Grimmer and Paseo Padre intersection) was between 60 and 62 decibels. The adjacent single family homes along Paseo Padre Parkway are approximately 300 feet from the skate park, separated by two landscaped medians (one with a berm), four lanes of traffic, and a parking lot. The skate park will be within adopted City standards for noise level and will not generate additional noise to the area to a noticeable level, especially not from a distance of 300 feet.

This project will add trees to the landscape area between Paseo Padre Parkway and the Skate Park to further minimize the view of the skate park from these homes, and to create additional sound absorption. In July 2010 a new landscaped median with significant tree planting was completed on Paseo Padre Parkway, between the residences and the skate park site.

Staff has committed to the residents if the project proceeds as recommended,

- To create a "Friends of the Skate Park" group. This group would consist of neighbors, skaters, and their parents,
- Coordinate Park Ranger patrol end of shift hours to coincide with the hours of operation of the Skate Park, and
- Should noise from the new skate park be a clear disruption to the rear yards of the property, that measures shall be explored and implemented as appropriate.

DISCUSSION/ANALYSIS:

The new Fremont concrete skate park will be unlike any other skate park in the world. The 25,000 square foot park design is the direct result of local skater input and a hands-on design process. As such, the proposed park terrain reflects the local skating styles and is distinctly unique in its layout of the

plaza, transition and the street course features. The park has been designed to accommodate all skill levels, spectators, competitions, and recreation programs, while minimizing maintenance, and being a resource to the entire community of Fremont.

Related Site Improvements. In addition to 25,000 square feet of skating surfaces, the new skate park facility will include shade structures, picnic benches, spectator seating benches, drinking fountains, bike racks, and lighting for safety and night skating. The site furnishings will be modern looking and made from durable low to no maintenance materials. The design of the furnishings focuses the use on the non-skaters and observers, with edges and trims that do not encourage grinding and other skate activities. Maintenance is an important factor that was considered in the total design of the skate park as well as the specifics regarding materials and uses of the space.

Integrated Landscape Improvements. Breaking from the tradition of monolithic concrete massing, typical of most municipal skate parks, the Fremont skate park will include integrated synthetic turf, trees, planting, stormwater retention/percolation areas and spectator areas. This softscape relief within the footprint of the skate park will allow for unique viewing opportunities, shade and cooling, aesthetic enhancements/variation, and the feel of a bigger skate park.

Synthetic turf is being used for the interior “landscape” areas for its low/no maintenance qualities. These landscape areas will have tree plantings to provide shade, a three dimensional feel and for the separation and definition of the different skate type areas. There will be natural landscape areas at the perimeter of the skate facility to help the paved improvements blend into the surrounding landscape of Central Park. These landscape areas include planted areas that are specifically designed for the detention and percolation of stormwater generated from rain events and the site improvements.

The layout of the skate park facility and the pedestrian/observer use areas is intentionally designed to provide the maximum skate experience while providing integrated and interactive viewing by non skaters.

Materials and Construction. The proposed skate park will be substantially built of poured-in-place concrete. Far different than the concrete of sidewalks, the skate park concrete is structurally engineered to minimize cracking and facilitate the development of precision finish surfaces. Several high profile areas of the skate park concrete are proposed to be brick stamped and stained concrete. This detailing will add functional textures and shading for skaters as well as help break up the massing of the total concrete area. The park is also detailed with several types of metal edging commonly referred to as “coping”. The coping is located at the edge of ramps and ledges and has two primary functions. Coping specifically allows skaters to perform various tricks and maneuvers that cannot be performed on concrete edges. The coping also protects the skate park edges from the grinding maneuvers that skaters perform that would destroy the skate park. For this reason, coping is detailed onto every “grindable” ledge in the park, eliminating the need for any ongoing maintenance or repairs to the skate park structure.

User Groups and Safety. The average skater is fourteen years old, but skate parks are regularly and widely attended by skaters from two to sixty years of age. It is often assumed with skating, as it is with many sports, that skill level is associated with age. However, with skating, age and skill level have no correlation. More often than not, the best skaters at any skate park are children under ten. This dynamic

is one the many great aspects of skating, but it requires careful planning to ensure the skate park design will function safely while providing challenges for the skaters as their skills improve. The proposed Fremont Skate Park responds to this dynamic in several specific ways:

- Skill level specific terrain modules – The skate park has been designed to promote an overall “flow” -ability for skaters to seamlessly connect the various parts of the park together while riding. However, the park is specifically set-up in modules that are associated with the various skill levels (beginner through advanced). Each module design anticipates and, by design, controls rider speed and path of travel. Modules that allow for higher rates of speed are physically separated from modules and terrain that promote slower rates of speed. As a result, a “first time” skater can safely learn the sport within the same park where an advanced rider is further expanding their skills with minimal risk of collision or interference. If they have the skills, a skater has the potential to link the modules together to enjoy the park’s entire flow.
- One for all – The park has been designed with skill level specific terrain modules, but there will not be any physical boundaries or people preventing beginners and advanced skaters from exploring and using the entire park. For this reason, the park is designed to be safe for beginning skaters in all locations, while still providing infinite challenges to the most advanced skaters. This is accomplished by minimizing vertical falls, blind spots, and intersections while maximizing site lines and traffic blending.

Art Board Recommendation: At their regularly schedule meeting on July 15, 2010, the Art Board reviewed the proposed art by Eric Powell. The art consists of six panels of formed steel to represent abstract images of skaters in motion. These panels will be incorporated into the advanced bowl guard rail/fence and will be in prominent view from throughout the park. The Recreation Commission reviewed and recommended approval of the Art Board recommendation to approve the proposed art by Eric Powell.

Recreation Commission action: On July 21, 2010, the Recreation Commission voted (6-0-0) to recommend the City Council adopt the Site Master Plan for the Skate Park and approve the art as recommended by the Art Review Board.

FISCAL IMPACT:

The adopted project budget for the Permanent Skate Park is \$2,042,000. Funds for the skate park are from Park Development Impact Fees and are therefore dedicated for park development. These funds cannot be used for other purposes such as maintenance and public safety. The budget breakdown is as follows:

Project Management, permitting, utilities, community process, special studies:	\$249,676
Design Consultant (Verde Design, Inc.)	\$210,240
Construction (estimated bid):	\$1,200,000
Construction Management:	\$124,000
Project Contingencies:	<u>\$258,084</u>
TOTAL PROJECT BUDGET:	\$2,042,000

ENVIRONMENTAL REVIEW: An Initial Study (Informational Item 1) and draft Negative Declaration (Exhibit A) have been prepared for this project. The environmental analysis did not identify any concerns regarding potential significant impacts.

A Notice of Intent to Adopt a Negative Declaration was mailed to adjacent property owners on August 23, 2005. The public comment period for draft Negative Declaration and Initial Study ran from August 25, 2010 through September 13, 2010.

ENCLOSURES:

- [Informational 1: Initial Study for Skate Park](#)
- [Exhibit A: Draft Negative Declaration](#)
- [Exhibit B: Site Master Plan for Fremont Skate Park \(17 pages\)](#)

RECOMMENDATION:

1. Hold a public hearing.
2. Adopt the draft Negative Declaration, as shown in Exhibit A, and find this action reflects the independent judgment of the City of Fremont.
3. Approve the art designed by Eric Powell for the Advance Bowl railing, and that it meets the requirements of the Art in Public Places Policy, Resolution No. 7111.
4. Approve Exhibit B, Site Master Plan for the Fremont Skate Park, PWC 8672.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
September 21, 2010	6:30 p.m.	Work Session	Council Chambers	Live
September 28, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 4, 2010	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
October 5, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 12, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 19, 2010	TBD	Work Session	Council Chambers	Live
October 26, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 16, 2010	TBD	Work Session	Council Chambers	Live
November 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 30, 2010 (5 th Tuesday)		No City Council Meeting		
December 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live